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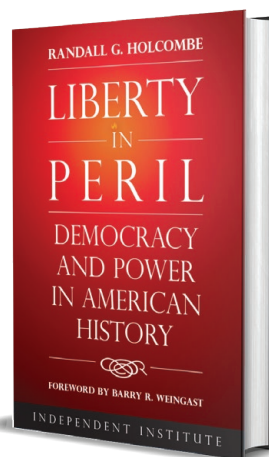
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Spontaneous Order

Origins, Actual Spontaneity, Diversity

CARLO LUDOVICO CORDASCO AND
SEBASTIANO BAVETTA

The theory of spontaneous order has been the object of a large number of studies in the history of political thought. Authors such as Bernard de Mandeville ([1714] 1732), David Hume ([1777] 1975, [1740] 1978), Adam Smith ([1776] 1976), and Carl Menger (1963) were among the first to develop a fully fledged account of how institutions spontaneously develop as a result of the unintended design arising out of intentional human actions. Similarly, authors such as Robert Nozick (1974) and Anthony de Jasay (1989) used the spontaneous order as a tool to show whether public goods can be produced by simply relying on individuals' self interest. However, the popularity of the spontaneous order has to be ascribed to Friedrich Hayek, who dedicated a large part of his work to developing the concept.

Although such tradition encompasses many important authors, political theorists have largely neglected it in the past twenty years. Yet authors such as Gerald Gaus (2011) and John Tomasi (2012) have recently insisted on the relevance that the spontaneous order has or should have within the classical liberal tradition.

Carlo Ludovico Cordasco is a Ph.D. candidate in political philosophy at the University of Sheffield and visiting scholar in the PPE Program at the University of Pennsylvania. **Sebastiano Bavetta** is a professor of economics at the University of Palermo and a visiting professor in the PPE Program at the University of Pennsylvania.

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In this paper, we aim to revive the research project on the spontaneous order by examining it critically. We aim to show that normative formulations of the spontaneous order suffer from one main flaw: they focus on the origin of orders rather than on how orders actually perform.

In particular, we argue that such normative formulations tend to qualify orders as spontaneous according to two main requirements: unintendedness and negative liberty. The first requirement prescribes that to be considered spontaneous an order must not be the result of human design but the unintended consequence of human actions. The second requirement, in contrast, prescribes that an order is spontaneous when it arises out of free individuals' interactions.

Our main goal is to show that both requirements tell us very little about how orders actually perform and in fact justify a large variety of institutional arrangements that many classical liberal theorists would qualify as unacceptable.

Our second aim is to propose a new formulation of the spontaneous order that focuses on orders' actual performance (*actual spontaneity*). Such formulation has been inspired by Hayek's insistence on the importance that social orders be able to adapt to new circumstances—in particular, on their ability to find efficient solutions to coordination problems through the use of knowledge dispersed among individuals.

Cooperation and coordination depend on an order's ability to adapt to changes in individuals' preferences and beliefs, and it is this ability, to our mind, that should determine the spontaneity of an order.

Although we do not indicate the institutional arrangement that may satisfy this condition, we argue that designing such an institutional framework is not a prohibitive enterprise. Hayek himself seemed aware of this possibility when he claimed that “[w]e can ‘plan’ a system of general rules, equally applicable to all people and intended to be permanent (even if subject to revision with the growth of knowledge), which provides an institutional framework within which the decisions as to what to do and how to earn a living are left to the individuals. In other words, we can plan a system in which individual initiative is given the widest possible scope and the best opportunity to bring about effective coordination of individual effort” ([1939] 1997, 194).

Orders, we argue, do not need to be the result of unintended design in order to be spontaneous. The difference between a spontaneous and a nonspontaneous order should not depend on how an order has originated but on its actual ability to adapt to new circumstances.

Furthermore, we argue that even “designed” spontaneous orders may evolve into nonspontaneous orders if individuals who inhabit them lack certain personal qualities. Diversity, or our capacity to empathize with diversity, is one of these qualities insofar as a homogeneous society would naturally tend to manipulate its institutional arrangements in order to jeopardize diverse perspectives.

In the first half of this paper, we analyze two formulations of the spontaneous order that have emerged from Hayek's work. Here, we argue that both accounts fail

to provide a genuinely normative account of the spontaneous order. In the second half, we sketch a third formulation that focuses on what we have been defining as the “spontaneity of orders.” Specifically, this formulation measures orders’ ability to adapt to new circumstances. We also briefly discuss the role that diversity plays in preserving orders’ spontaneity.

Spontaneous Order and Evolution

The first formulation of the spontaneous order we wish to explore focuses on a descriptive account of the evolution of orders. In particular, Hayek seems to insist on the “twin ideas of spontaneous order and evolution,” according to which rules and institutions that shape social orders are not the result of human design but rather of a largely unintended evolutionary mechanism.

According to Gaus (2006), Hayek identifies three main ways in which norms evolve: group survival, group growth, and an endogenous mechanism. The first two mechanisms capture the idea of an intergroup selection of rules:

Although the existence and preservation of the order of actions of a group can be accounted for only from the rules of conduct which individuals obey, these rules of conduct have developed because the individuals have been living in groups whose structures have gradually changed. In other words, the properties of the individuals which are significant for the existence and preservation of the group, and through this also for the existence and preservation of the individuals themselves, have been shaped by the selection of those individuals from the individuals living in groups which at each stage of evolution of the group tended to act according to such rules as made the group more efficient. (Hayek 1967, 72)

According to those two mechanisms, a process of imitation of the more successful groups shapes the evolution of norms. If, for instance, Peter and Kate, under the set of norms k , managed to survive or to achieve better outcomes than Alf and Betty did under set z , the process of imitation will lead Alf and Betty to shift toward k . It is important to point out that such evolution may not be the result of Alf and Betty’s explicit will or awareness but the result of a partially unintended process of imitation. Furthermore, at the intergroup level, the process of imitation normally concerns the whole set of norms instead of particular rules owing to the impossibility, in Hayek’s perspective, to isolate the effects of particular norms on the general outcomes. The process of imitation of successful groups is, in Hayek’s mind, a sort of Darwinian device that embeds locally dispersed knowledge and that is supposed to lead to the diffusion of efficient sets of norms and institutions.

The endogenous mechanism, in contrast, works at the intragroup level and is shaped by the “competition between individuals.” According to Gaus, “This stress

on individual competition and the evolution of rules suggests that, instead of a competition between social orders, Hayek has in mind a competition between individuals within a social order that leads to the selection and evolution of rules” (2006, 244).

Specifically, such intragroup evolution is shaped by nonrandom deviations from the existing set of rules. According to the endogenous mechanism, rules that do not entirely satisfy Alf or Betty are more likely to be violated and thus replaced with more efficient rules. For instance, if Betty rightly expects that following norm *b* will produce better outcomes than behaving according to norm *a*, and such deviation also satisfies Alf, then *b* will replace *a*.

However, both the intergroup account and the intragroup account of the evolution of norms suffer important flaws. The latter seems to ignore the conclusion that the fact that a few individuals might enjoy better payoffs by not complying with certain rules does not show that such deviation, when generalized, shall produce optimal outcomes. For instance, I can enjoy better payoffs by not complying with the rule “keep off the flower beds,” but the payoff would become negative if everyone were to decide not to comply. Hayek’s account of intragroup evolution of norms essentially tends to ignore collective-action problems.

More importantly, the intergroup account seems to commit the “post hoc ergo propter hoc” fallacy. According to this account, the mere existence of a particular set of rules, being the result of a process of imitation that led less successful groups to adopt the rules of more successful groups, is by definition the best available.

This approach is unable to account for the fact that many existing norms are inefficient, and by looking at how the order has been originated instead of at how it actually performs, it is unable to distinguish between good- and bad-performing orders.

The problem with Hayek’s intergroup account of the evolution of norms is that the process of imitation cannot be a reliable device toward the diffusion of efficient norms. Specifically, it ignores several possibilities: imitation may require long transitions, or inefficient social norms may be the result of suboptimal Nash equilibria that are difficult to dismantle, or, due to differing circumstances or environmental factors, adopting the set of rules of another group may not lead to the same success that the other group has achieved.

In “Norms of Cooperation,” Cristina Bicchieri proposes a brilliant example that highlights the difficulties of Hayek’s sort of approach toward the evolution of norms:

Consider as an example norms of revenge; until not long ago, a Sicilian man who “dishonored” another man’s daughter or sister had to make amends for the wrong by marrying the woman or pay for his rashness with his own life. The objective was to restore the family’s lost honor, but the social norms dictating the ways in which this could be done were the only means available to identify honor in those circumstances. One may think that some form of monetary compensation would have worked equally well, if not better, in the case in which a marriage was impossible. It would

have spared one, perhaps many, lives. But accepting a monetary compensation was not revenge, and since nobody would have ever accepted such an atonement, nobody would have ever thought of offering it. Approving of the man who exacts revenge, calling him a “man of honor,” does not necessarily involve approval of the norm as rational or efficient. Even if one thinks a norm unjust and useless, it may be difficult not to conform, since violation involves a collective action problem: nobody wants to be the first to risk social disapproval by breaking the norm openly. (1990, 838–39)

In this example, although norms of revenge are perceived as irrational or inefficient, they still persist insofar as noncompliance bears the risk of social disapproval. This seems to be the case even when we have at our disposal the example of external groups that have performed better by replacing norms of revenge with monetary compensation. Transitions may be long and costly.

As Jasay notices, there is a trivial sense in which existing norms or institutions proved to be the “fittest.” In particular, they proved to be the fittest to survive. However, nothing proves that institutions that are the fittest to survive are also able to enhance the conditions for group survival or group growth: “A health service which healed some people and made most others dependent on doctors, hospitals, and drugs would certainly be fit to survive; it would create demand for itself and establish the pre-conditions of its own propagation. A prison system in which petty criminals became hardened and unreformable, or asylums that made the unhinged even madder, would likewise be self-perpetuating” (1989, 77). A Darwinian account of the spontaneous order essentially fails to recognize that the features that allow the self-perpetuation of institutional settings may have little to do with the features that are able to provide the conditions for group growth. On the contrary, in a large number of cases, institutions can be self-perpetuating precisely because of their inefficiency.

Consent-Based Spontaneous Order

A second approach to the definition of the spontaneous order poses the requirement of agents’ negative freedom. According to this definition, an order is spontaneous when it is the result of negatively free individuals’ interactions.

Hayek in particular seems committed to the idea that an order in which individuals are free to use their own knowledge for their own purposes is also an order in which coordination problems can be efficiently solved by recourse to a complex selection mechanism that is able to adapt to new circumstances by embedding the knowledge dispersed among individuals.

In order to clarify this formulation, we must consider Hayek’s economic analogy concerning the price system. In a free market, negatively free agents make economic

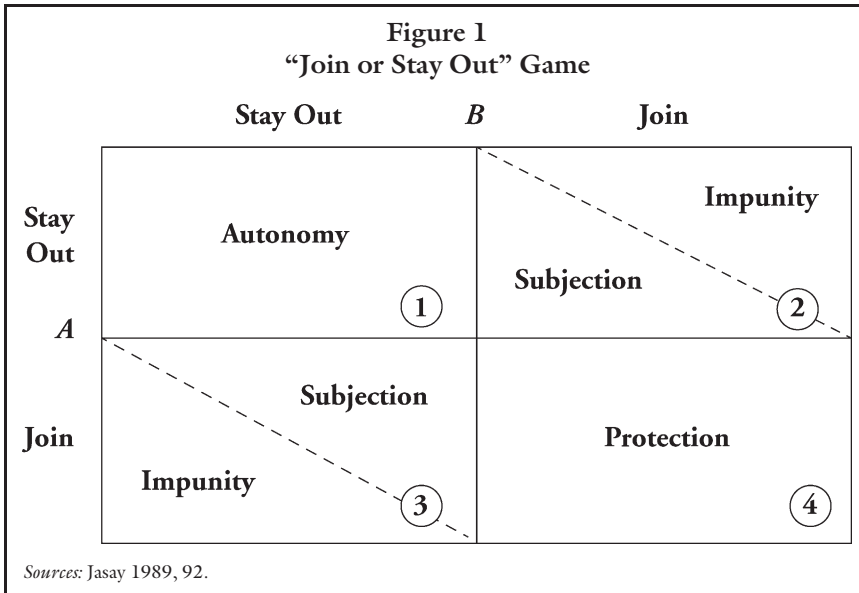
decisions that are reflected by prices, which embed the knowledge dispersed among many people and allow them to coordinate their actions: “Fundamentally, in a system where the knowledge of the relevant facts is dispersed among many people, prices can act to co-ordinate the separate actions of different people in the same way as subjective values help the individual to co-ordinate the parts of his plan” (Hayek 1945, 526).

There are two obvious problems with this account of the spontaneous order. The first concerns the fact that to work properly devices such as the price system need other institutions (such as the protection of property rights) that may not arise out of the free interactions of individuals; the second consists in the fact that a device such as the price system finds no easy counterpart in the realm of norms.

The difficulties with this account can be explained by a simple example. Suppose that Miriana and Milena are neighbors and isolated from the nearest town. They are not involved in any social contract, and suppose for the sake of the example that their lives are essentially peaceful. They are thus negatively free, unconstrained in pursuing their goals and willing to find an agreement to cooperate for the production public goods such as the enforcement of non-self-enforcing contracts. In such a case, they might end up with a large number of institutional settings depending on many factors: differences in bargaining power, risk aversion, preference ranking, and so on. Suppose, for instance, that after careful consideration they decide that from now on the older member, Milena, has authority over the group. Miriana thus voluntarily decides to sacrifice a part of her freedom to improve her conditions. The question is: Would this order be a spontaneous one according to Hayek’s account? The answer seems positive insofar as the consent-based approach to the spontaneous order poses no duties on Milena. Specifically, it does not imply that Milena should adapt her decisions to new circumstances or that she ought to self-revoke her power when the circumstances change such that it would be preferable to rediscuss how the right to rule should be assigned.

The consent-based approach therefore may justify any institutional arrangements as long as individuals agree to commit to it at t_1 , including arrangements that will manifestly lead to states of affairs that are unable to adapt to new circumstances or that rely on selection mechanisms that do not allow the use of locally dispersed knowledge.

The story of Miriana and Milena is also captured by Jasay’s simplified version of Nozick’s “join or stay out” game (see figure 1). Protection is the result of both A and B joining the only available protective association, whereas autonomy emerges as a result of both A and B deciding not to join. If A joins and B stays out, A enjoys impunity, whereas B will suffer subjection, and vice versa. As Jasay notices, both protection and autonomy are perfectly plausible solutions depending on A’s and B’s preference rankings. However, what is important to point out is that according to consent-based formulations of the spontaneous



order, any institutional setting arising out of individuals' free interactions should be defined as spontaneous.

Rethinking the Spontaneous Order

The main problem with the two approaches outlined earlier consists in the fact that they seem more concerned with the origin of orders rather than with how orders actually perform. The first approach, for instance, is bound to define orders as spontaneous in virtue of their being the result of a complex and unintended evolutionary process; the second adds the requirement of negative freedom, which, however, justifies any institutional arrangement as long as individuals agree to commit to it at a certain time.

Both approaches fail to account for one main requirement that we find essential to the notion of spontaneous order: an order's ability to adapt to new circumstances through the use of dispersed knowledge, which we refer to as *actual spontaneity*.

We propose that the solution to the problem in both accounts consists in abandoning the tie between how an order has originated and its spontaneity. In particular, we argue that the original requirement of negative freedom tells us little with regard to the institutional settings that shall arise as a result of individuals' interactions. Abandoning the tie between the definition of spontaneity and the origin of an order also implies the rejection of the requirement of *unintendedness*, according to which an order can be defined as spontaneous if and only if its basic structure is the result of human actions but not of human design. Despite Hayek's insistence on this requirement, unintendedness tells us very little with regard to an order's actual

spontaneity. What matters most, we argue, is the actual institutional arrangement and its ability to adapt to new circumstances.

We find actual spontaneity worthy of consideration for one main reason: it poses an important constraint to institutional arrangements by emphasizing the importance of embedding locally dispersed knowledge in the process of deliberation.

This reason is grounded in the idea of political authorship. In particular, we argue that individual preferences should be embedded in the process of deliberation that gives rise to rules of conduct. Furthermore, we argue that consent and utility maximization do not justify institutional arrangements that may prevent the order's adaptability to new circumstances, such as changes in individual preferences due to moral or technological innovations. The focus of actual spontaneity is thus to foster political authorship through the limitation of formal and informal obstacles to the adaptation to such circumstances. This goal, we believe, is unattainable by relying on either an evolutionary or a consent-based account of the spontaneous order.

Grasping the Institutional Framework

Rethinking the spontaneous order in light of the concept of actual spontaneity thus requires the ability to grasp such institutional arrangements. Then, the question is whether such an ambitious enterprise is possible within the Hayekian framework. The answer to this question seems to be “yes.” In Hayek’s words,

We can “plan” a system of general rules, equally applicable to all people and intended to be permanent (even if subject to revision with the growth of knowledge), which provides an institutional framework within which the decisions as to what to do and how to earn a living are left to the individuals. In other words, we can plan a system in which individual initiative is given the widest possible scope and the best opportunity to bring about effective coordination of individual effort. Or we can “plan” in the sense that the concrete action of the different individuals, the part each person is to play in the social process of production—what he is to do and how he is to do it—is decided by the planning agency. . . . The planning of the planners of our time . . . involves the idea that some body of people, in the last instance some individual mind, decides for the people what they have to do at each moment. ([1939] 1997, 194)

Here, Hayek seems to distinguish between two very different approaches to planning. The first aims to set the general institutional framework within which individuals are able to interact with one another, pursuing their own goals on the basis of their own knowledge, whereas the second aims to rule individuals’ actions in a detailed way toward the achievement of specific ends, decided at the central level.

This distinction seems to resemble Hayek's distinction among different degrees of explanation of complex phenomena. Hayek famously argued that complex phenomena such as social interactions cannot be explained in a detailed way. Their explanation or a plausible prediction of their outcomes can happen only with some degree of generality. Scientists who wish to make fine-grained predictions concerning the outcomes of complex events are likely to fail insofar as they lack the required knowledge that would allow such an enterprise. Planners who wish to achieve specific outcomes by ruling individuals' actions in a detailed way are similarly likely to fail in their own enterprise.

Hayek's knowledge problem, however, does not preclude our ability to grasp the general structure of a complex system or to make general predictions on its performances or, more importantly, to design the general framework that may implement the spontaneous order as actual spontaneity. Moreover, this seems exactly what Hayek attempts to do in outlining the main features of his formulation of the common law or in designing the general characters of "the political order of a free people" (see in particular Hayek 1973, 1976, 1979).

Being able to design the general framework of a spontaneous order, however, does not imply our ability to predict its particular outcomes. What we can do is provide general predictions concerning its comparative ability to achieve a general goal. To clarify this point, we can borrow Hayek's example of the clockwork: "Even where we are able to construct one of these objects, say a clockwork, the knowledge of the principle involved will not be sufficient to predict more than certain general aspects of its operation. We should never be able, for instance, before we have built it, to predict precisely how fast it will move or precisely where its hands will be at a particular moment of time" (1952, 183). Similarly, we cannot predict the form or content of particular norms that shall arise out of individuals' interactions or how the distribution of goods will be shaped at a certain time.

Actual Spontaneity, Value Pluralism, and Rules of Change

Actual spontaneity requires the ability to adapt to new circumstances. In particular, it requires a device through which it is possible to collect and aggregate locally dispersed knowledge to allow the efficient solution of coordination problems.

The idea of actual spontaneity, thus, does not aim to provide a set of specific goals that are to be achieved through a particular institutional arrangement. On the contrary, it aims to include individual preferences within the process of deliberation and to facilitate the satisfaction of goals by allowing persons to cooperate with one another even if they don't share similar perspectives on morality.

Actual spontaneity is thus value pluralist in its essence, and designing its general framework means in the first place designing its rules of change rather than substantive rules of conduct.

This distinction may recall H. L. A. Hart's distinction between primary and secondary rules, where the latter are power conferring and the former duty imposing (1961, 77–96). However, in our account secondary rules are not bound to be power conferring, and primary rules are not necessarily duty imposing. What distinguishes secondary from primary rules is, in the first instance, their different aim. In particular, secondary rules or rules of change are supposed to instantiate the spontaneous order. They determine the ways in which primary rules arise and how they are to be replaced. In contrast, primary rules or substantive rules of conduct emerge as a result of the self-organizing system implemented by the rules of change, and their aim is to issue commands or to define a protected sphere of individuals' actions. Substantive rules of conduct, like prices, embody a large amount of dispersed knowledge that is the result of individuals' preferences and interactions and tend to be less abstract and general than rules of change.

The attractiveness of the idea of actual spontaneity lies in the fact that it does not aim to regulate social interactions by recurring to a predetermined set of norms or institutions. On the contrary, it aims only to set the rules of change in a way that allows the evolution of norms and institutions to follow the evolution of individuals' beliefs and preferences.

Behind the concept of actual spontaneity is the idea that there is no such thing as an optimal predetermined set of rules of conduct or institutions that is able to solve complex problems efficiently or even to solve similar problems at different times. Solutions to complex problems are “tightly coupled”; they depend on a large number of factors, including environmental conditions, individual beliefs or preferences, and so on. This dependence, in turn, means that changes in one of those factors shall determine a change in the set of eligible solutions to such problems.

Diversity and the Spontaneous Order

One of the most relevant implications of the concept of actual spontaneity is that *diversity* constitutes, to some extent, both an important opportunity to exploit and a necessary requirement to preserve the spontaneity of an order.

Diversity is an opportunity insofar as being able to aggregate different perspectives on the same object helps us appreciate those perspectives. Suppose Bob, a nine-year-old child, has to make a decision whether to go to school tomorrow or not. He sees school mainly as a chance to play with other children and balances that advantage with the benefits he can obtain by staying home and playing alone with the Xbox. If Bob is confronted with both Alf's perspective, according to which school is a great chance to learn from teachers, and Betty's perspective, which emphasizes the importance of socializing with children of the same age, he might come to appreciate new aspects of going to school. Being confronted with different perspectives does not mean that we are required to internalize rules deriving from those perspectives. It only gives us the chance to look at the same thing under

different lights. It may be the case that Bob already possesses good reasons to endorse Alf's or Betty's claim or that Alf and Betty's arguments shall influence Bob's perspective or that Bob may decide to reject Alf's or Betty's claim or both after careful consideration.

Crucially, though, the mere existence of different perspectives does not constitute an opportunity per se. In order to be valuable, diversity requires our ability to empathize with different perspectives. Simply being confronted with Alf and Betty's arguments does not imply our ability to grasp their perspectives and to consider them properly as plausible or to give them a try.¹ Empathy, however, should not be seen as an altruistic feature. On the contrary, we argue, it arises out of our desire for *self-realization*.

Once we start to understand that our sense of self-realization is enriched by other people's perspectives, we shall have self-interested reasons for empathizing with them.

For instance, suppose Mary won the science contest in his classroom. She used to look at it as a mere competition, whose main goal was to show how good she was at science compared to her classmates. However, after careful consideration of other people's perspectives, she came to appreciate other aspects of her win. Specifically, her efforts in preparing the experiment for the competition provided an important example for her little brother; her win made her teacher, Betty, proud of her and paid back Betty's efforts and dedication; and so on.

Many of our life experiences or achievements are made worthier by being confronted with other people perspectives. For instance, the research of a mathematician or a philosopher not only may enhance her specific subject but also may influence other disciplines by solving other people's problems.

Diversity is also an essential feature required for the protection of the spontaneous order because a largely homogeneous society will likely try to manipulate rules of change in a way that will exclude diverse perspectives from the selection mechanism that determines the content of substantive rules of conduct.

Conclusion

The first goal of this paper was to show that previous formulations of the spontaneous order focused on the origin of orders rather than on how orders actually perform.

The first approach we considered defines as spontaneous any order that is the result of a selection mechanism driven by group growth and group survival. On the contrary, we tried to show that although it is trivially true that existing institutions proved to be the fittest to survive, there is no reason to believe that being fit to survive also promotes the conditions for group growth or group survival. We may say that although there is a critical level of group growth or group survival

1. For a similar perspective, see Muldoon 2009; Gaus 2011; Bavetta, Navarra, and Maimone 2014.

that institutions need to supply in order to survive, incentives between the survival of institutions and group growth are often not perfectly aligned.

The second approach adds the requirement of negative freedom but justifies any institutional arrangement arising out of individuals' interactions as long as individuals agree to commit to it at t_1 , including those arrangements that will be manifestly unable to adapt to new circumstances.

We have argued that the focus on the origin of an order tells us very little with regard to how it actually performs or its main general features. We agree with Jasay in affirming that the institutional character of consent-based orders is largely indeterminate: it may either result in a set of norms that triggers cooperation or generate uncertainty and high transaction costs that will compromise the order's ability to adapt to new circumstances.

We also proposed a new formulation of the spontaneous order that abandons the tie between the origin of an order and its spontaneity by focusing on its ability to adapt to new circumstances through the use of locally dispersed knowledge.

We argued that orders do not need to be the result of an unintended design to be spontaneous and that it is perfectly plausible to design the basic structure of a spontaneous order. This enterprise consists mainly in designing the rules of change that determine the ways in which substantive rules of conduct shall be selected and replaced.

This view seems consistent in particular with Anthony de Jasay's description of the constitution of a limited government, according to which "[a] constitution may be no more than a set of procedural rules laying down how political decisions are to be reached—perhaps, more precisely, the conditions that must be fulfilled for a political decision to be binding both for the officers of the state and for its ordinary subjects" (1997, 148). In our account, the aim of these rules of change is to prevent nonspontaneous evolutions that may arise out of consent-based orders. Specifically, such rules are meant to trigger adaptation to changing circumstances or to prevent institutional arrangements that would compromise the order's spontaneity.

Finally, we claimed that diversity—or, more precisely, our ability to empathize with diversity—constitutes an essential feature of a spontaneous order. Specifically, it is both a chance to exploit opportunities and a necessary requirement to preserve an order's spontaneity. Empathy, however, should not be seen as an altruistic character but rather something grounded on self-realization. Specifically, once we come to understand that our life experiences and achievements are enriched by other people perspectives, we shall realize that we have self-interested reasons to empathize with others.

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